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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4267 OF 2006

Sarjerao Dattatray Jadhav
and Ors. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.Nitin Pradhan with Ms.Shubhada Khot for applicants
Mr.S.S.Mhambre, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 4th December 2006

P.C.

. Applicants are original accused Nos. 2,

5 to 10 and 12 to 18 in C.R.No.57 of 2006 which is registered with Panhala Police Station, Kolhapur Dist. for offences punishable under sections 302, 307, 323 to 326, 341, 143, 144, 147 to 149 of I.P.C. read with 135 of Bombay Police Act.

2. The incident took place on account of elections to two cooperative societies which are at village Kalaoli in Panhala Taluka. Mr.Pradhan states that as far as the present applicants are concerned, allegation is not that they have assaulted deceased Ananda but those injured in the incident. Even otherwise and assuming that they were present at the site, as far as assault on Ananda is concerned, statement of complainant Vikas would show that each one of the 18 accused have, after arming themselves with sticks and other weapons allegedly assaulted deceased. In such circumstances and when no specific role is attributed to the accused but an omnibus allegation is levelled, he submits that

application deserves to be considered. Applicants requests for bail have been rejected, mainly on the ground that the two Coop.societies being within the village, it would witness several such incidents on account of their elections in future. The incident has occurred due to political rivalry and there is, therefore, an apprehension that the injured eye witnesses would also be threatened and the evidence otherwise would be tampered with.

3. Upon taking instructions, Mr.Pradhan states that applicants before me would not enter Panhala taluka till such time this Court directs and would also abide by all other conditions. That would take care of apprehension expressed by the learned Trial Judge.

4. Learned A.P.P. does not dispute that the applicants' applications were rejected by the trial court, principally on the ground that the political enimity between the parties so also

their past is something which cannot be brushed aside. An election defeat is not taken lightly and the incident may occur once again. More so, if the applicants are released, there is every likelihood that incident may be repeated.

5. In my view, elections were held in the year 2004. The applicants have been arrested after the C.R. was registered. However, investigation is over and charge sheet is filed. Present applicants have been under arrest since 17th June 2006. In such circumstances, the only ground for their application being rejected by the trial court can be taken care of by imposing strict conditions so also accepting the assurances of Mr.Pradhan. Hence, following order:-

i) The applicants (1) Sarjerao Dattatray Jadhav, (2) Sambhaji Chandrakant Jadhav, (3) Ashok Pandurang Jadhav, (4) Rajaram Shripati Jadhav, (5),

Sartadar Shripati Jadhav, (6) Raghunath Baburao Kadam, (7) Sagar Raghunath Kadam, (8) Vikas Shankar Jadhav (9) Bajirao Chandrakant Jadhav, (10) Mansing Shripati Patil, (11), Savala Devappa Jadhav (12) Prakash Khandu Jadhav, (13) Shivaji Vasant Jadhav and (14) Yuvraj Ashok Jadhav, arrested in connection with C.R.No.57 of 2006 registered with Panhala Police Station shall be enlarged on bail in the sum of Rs.15,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicants shall reside at Kolhapur till the conclusion of trial and will remain present before the Karveer police station once a week between 5.00 p.m. and 7.00 p.m. on every Saturday till conclusion of the trial.

iii) The order of bail will be given effect only after the applicants furnishe to the investigating officer the details about their place of residence and address where they propose to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicants shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicasnt shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any

attempt by the applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)